Advanced Biofuels Association

Comments of the Advanced Biofuels Association

To the Energy Tax Reform Working Group
Committee on Ways and Means
United States House of Representatives
April 15, 2013

About the Advanced Biofuels Association

The Advanced Biofuels Association (ABFA) is a national organization representing the new generation of advanced and renewable technologies that will help drive America's new economy by creating jobs, reducing our dependence on foreign oil and fossil fuels while fueling a sustainable future for the world. The ABFA has quickly become a leading voice for America's biofuels industry since it was established in 2009.

With 42 member companies, ABFA represents the advanced biofuels industry. Our members are developing and commercializing a wide range of technologies, feedstocks, and molecules to produce renewable, lower carbon fuels that will move our nation closer to achieving energy and economic security. The ABFA supports policies that are technology neutral, promote the utilization of sustainable feedstocks and supports subsidy parity to ensure all viable advanced biofuels can compete with the benefit of a level playing field. Using feedstocks, forest trimmings, animal fats and algae, our members are employing a variety of advanced technologies.

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What Are Advanced Biofuels?
Advanced biofuels – or second generation biofuels – are a suite of hydrocarbon, gasoline, and oil-substitutes built from plentiful American feedstocks and other forms of biomass.

Defined by law as high-performing sustainable transportation fuels, many advanced biofuels are engineered to go straight into existing pipelines, refineries and planes, trains and automobiles. They are real and are being economically produced today in the United States. In 2012, over 2.25 billion gallons of advanced and cellulosic biofuels were produced.

Many in Congress on both sides of the aisle have called for an "all of the above" energy strategy for America. Utilizing these fuels strategically benefits the US by delivering a diverse and secure energy source. No other fuels can guarantee long-term jobs and production, clean sustainable performance and the seamless use in our existing infrastructure. With world energy demand rapidly rising, advanced biofuels help extend our political and economic leverage with foreign nations and hedge against volatility in certain unstable energy regions of the world.

Key Tax Principle
The key tax principle of the ABFA is fairness and we have always stood for neutrality in the tax code. While the tax code currently contains a number of provisions to spur the development of energy sources broadly it is important to note they are not all created equal and are not all at the same levels or types of support.

Biofuels Tax Incentives
The current tax code provides a number of biofuels incentives that impact the ABFA membership:

> ***Second Generation Biofuel Producer Tax Credit (Sec. 40) -*** Producers of cellulosic and algae based biofuel may claim a $1.01 per gallon tax credit. This credit is available until January 1, 2014.
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> ***Special Depreciation Allowance for Second Generation Biofuel Plant Property (Sec. 168) -*** Producers of cellulosic and algae based biofuel may take a 50% depreciation deduction of the adjusted basis of a second generation biofuel plant property for the first year the plant is in service. This credit is available until January 1, 2014.
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> ***Biodiesel and Renewable Diesel Fuels Credit (Sec. 40A) -*** A retailer of biomass-based diesel (including biodiesel, renewable diesel, and renewable jet fuel) is eligible for a $1.00 per gallon incentive. This credit will expire in December 31, 2013.
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> ***Alternative Fuel and Alternative Fuel Mixture Excise Tax Credit (Sec. 6426) -*** The producers of all other types of advanced biofuels, such as renewable gasoline and heating oils, which are not eligible for other biofuels production tax credits, can claim this credit for their fuels. The credit is $0.50 per gallon of fuel produced. This credit expires in December 31, 2013.

In the five years since cellulosic biofuel tax incentives were enacted as part of the 2008 Farm Bill, advanced biofuel developers have invested several billion dollars cumulatively in commercializing cellulosic biofuels from next generation feedstocks such as corn stalks, wood chips, and municipal waste. Leading companies are right now building and commissioning the first large-scale commercial cellulosic biorefineries. The first two of these facilities – INEOS Bio in Florida and KiOR in Mississippi – are expected to deliver the nation's first commercial volumes of cellulosic biofuels this year. Dozens more such facilities are in the planning and development stage. Algae biofuel development has also accelerated recently, thanks in significant part to actions by Congress to extend cellulosic biofuel tax credits to algae-based fuels. Several leading algae biofuel developers have recently secured major investments in commercial projects. Other advanced biofuels, such as biobutanol and renewable hydrocarbons, have also advanced rapidly towards commercialization, driven in significant part by the promise of preferred tax status.

With advanced biofuels on the cusp of commercialization, tax incentives are more important now than ever. Sustained tax credit policy can help level the playing field for new, innovative technologies competing with mature technologies in the marketplace. Advanced biofuel tax credits have been an important and effective tool in pulling these technologies to the brink of commercial deployment – at very little cost to the taxpayer. We must ensure that the momentum built in the initial phase of these incentives is carried to fruition. These first-of-a-kind biorefineries can provide the blueprints for rapidly scaling up production of fuels, energy and chemicals from renewable biomass. Once a strong first wave of these facilities is able to demonstrate the technology at commercial scale, private capital for a broad national deployment will follow.

Regrettably, nearly all federal tax incentives for advanced biofuels are temporary and scheduled to expire at the end of 2013. To ensure continued progress in development of these important renewable technologies, expiring advanced biofuel tax incentives must be extended for the maximum achievable period, or until Congress undertakes fundamental tax reform. At a minimum, this should include extension of the Second Generation Biofuels Production Tax Credit, Accelerated Depreciation for Second Generation Biofuels Plant Property, tax incentives for Renewable Diesel; and tax incentives for Alternative Fuel Mixtures.

Recommendations

First and foremost, ABFA recommends a "do no harm" approach. As long as the current overall tax structure is in place these incentives should continue to be extended and supported. They are fundamental to the success of the industry and the deployment of new technologies.

Should overarching reform occur, ABFA recognizes it must look to prioritize and be prepared to reshape biofuels tax treatment. In any revised system tax policy must support our existing advanced biofuels companies and enhance the ability to build and develop the innovative commercial facilities of the future. Tax breaks such as credits, deductions and depreciation, and corporate structures such as Master Limited Partnerships (MLPs), can provide crucial financial support to firmly establish this burgeoning industry and set the United States at the forefront of an environmental and economic win-win.

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ABFA strongly recommends that the working groups consider the principles of subsidy parity across feedstocks and technology neutrality. The tax code should not pick specific winners, but create a broad framework of support for the advanced biofuels industry, letting the businesses compete on a level playing field with each other and the rest of the energy industry.

There are compelling reasons to reform, rather than terminate, the advanced biofuel incentives in the tax code. Many of the companies innovating new technologies and building factories and biorefineries are currently generating losses, and thus would be ineligible to benefit from reductions in the corporate income tax rate for many years. While we expect many of them to eventually become profitable, this will occur only after they have obtained financing for, and constructed, one or more commercial scale facilities. For this reason, comprehensive tax reform cannot justify using lower corporate income tax rates as a replacement for targeted advanced biofuels tax incentives.

Further, virtually all of the tax provisions supporting advanced biofuels are temporary, expiring at the end of 2013. Consistent with testimony provided before both House and Senate tax writing committee hearings over recent years, this lack of long-term predictability associated with the incentives is one of the critical flaws in current law and makes them relatively feeble market drivers. Developers of advanced biofuel biorefineries, for instance, generally discover that the credits are slated to expire years before their prospective facility could be placed in service. For this reason, financiers are generally unwilling to count the value of the tax incentives when calculating the potential viability of planned facilities. Consequently, tax incentives enacted as part of a comprehensive tax reform package must be permanent, or at least extended for such a long time as to cover the period where the industry could reasonably be expected to place its first generation of biorefineries in service.

We would like to work with you to support these efforts and help build a stronger, more efficient, tax code.

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